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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : ANGELICA BORMANN ET AL.  
SERIAL NO. : 09/557,376  
FILED : April 25, 2000  
FOR : STABLE ACTIVE INGREDIENT COMBINATIONS WHICH  
ARE EFFECTIVE AGAINST BLEMISHED SKIN AND  
AGAINST ACNE AND CONTAIN INTERFACE-ACTIVE  
GLUCOSE DERIVATIVES AND HYDROXYCARBOXYLIC  
ACIDS  
ART UNIT : 1619  
EXAMINER : L. Wells

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October 4, 2001

Hon. Commissioner of Patents  
Washington, D.C. 20231

**RESPONSE TO COMMUNICATION HOLDING PREVIOUS RESPONSE  
TO RESTRICTION REQUIREMENT NON-RESPONSIVE**

SIR:

Applicants submit that the above-identified communication is in error, and respectfully request that it be withdrawn. According to the communication, "Applicant failed to elect a species for the hydroxycarboxylic acid, the glucose derivative, and the interface substance."

However, Applicant clearly did make such an election. Thus, the very first paragraph on page 7 of the Remarks read as follows:

“In formal compliance with the restriction requirement, Applicants hereby elect with traverse to prosecute the species *lactic acid* for component (a) and the species *polyglyceryl(3) methylglucose distearate* (see the specification at page 9, lines 6-10) for components (b) and (c) in combination.”

Since component (a) corresponds to the hydroxycarboxylic acid, and components (b) and (c) correspond to the glucose derivative and the interface substance, respectfully, it should be clear that Applicants did, in fact, make a species election for each of the hydroxycarboxylic acid, the glucose derivative and the interface substance. The reference to the specification at page 9, lines 6-10, makes clear that the species polyglyceryl(3) methylglucose distearate satisfies both components (b) and (c), as this species is taught to be a mixture of compound A2, which corresponds to component (b), and the compound B1, which corresponds to component (c).

Respectfully, it is not understood what more is required. In the event the Examiner still believes that the election is defective, Applicants respectfully request that the Examiner acknowledge the election, then explain exactly what the species selected do not satisfy the election request.

In view of the fact that the Communication clearly is in error, Applicants do not believe

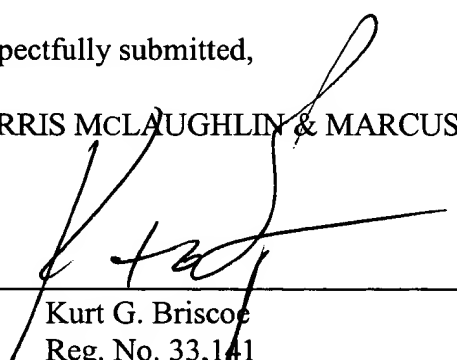
that any petition for extension of time is required. However, should the Commissioner determine otherwise, then Applicants respectfully request that this be considered to be a petition therefor, and the Commissioner is authorized to charge any fees due to Deposit Account No. 14-1263.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS MCLAUGHLIN & MARCUS, P.A.

By

  
Kurt G. Briscoe  
Reg. No. 33,141

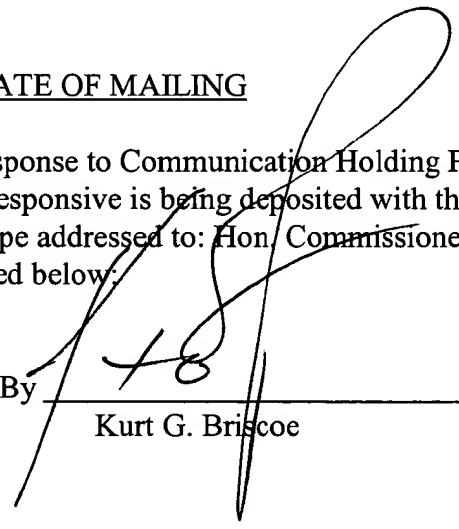
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(212) 808-0700

CERTIFICATE OF MAILING

I hereby certify that the foregoing Response to Communication Holding Previous Response to Restriction Requirement Non-Responsive is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Hon. Commissioner of Patents, Washington, D.C. 20231, on the date indicated below:

Date: October 4, 2001

By

  
Kurt G. Briscoe

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# TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> (To be used for all correspondence after initial filing)	Application Number	09/557,376	
	Filing Date	April 25, 2000	
	First Named Inventor	Angelica BORMANN et al	
	Group Art Unit	1619	
	Examiner Name	L. Wells	
Total Number of Pages in This Submission		Attorney Docket Number	Beiersdorf 613-KGB

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## ENCLOSURES (check all that apply)

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| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment / Response<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition Routing Slip(PTO/SB/69) and Accompanying Petition<br><input type="checkbox"/> To convert a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Small Entity Statement<br><input type="checkbox"/> Request for Refund | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Additional Enclosure(s) - (please identify below): |
|---|--|---|

Remarks:

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Kurt G. Briscoe, Esq. NORRIS McLAUGHLIN & MARCUS, P.A.	Reg. No. 33,141
Signature		
Date	October 4, 2001	

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